

United States District Court

for the
Western District of New York

United States of America

Case No. 20-mj- 30

v.

DAVID BURGIN, and
RODNEY PIERCE

Defendants



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

COUNT 1

Beginning on or about February 12, 2020, and continuing until on or about February 19, 2020, in the Western District of New York, the defendants, DAVID BURGIN and RODNEY PIERCE, did knowingly, willfully, and unlawfully combine, conspire, and agree with others, known and unknown, to distribute 500 grams or more of cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B); all in violation of Title 21, United States Code, Section 846.

COUNT 2

On or about February 19, 2020, in the Western District of New York, the defendant, DAVID BURGIN, did knowingly, intentionally, and unlawfully use and maintain a place, that is 56 Grimes Street, Buffalo, New York, for the purpose of manufacturing, distributing, and using cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 856(a)(1).

COUNT 3

On or about February 19, 2020, in the Western District of New York, the defendant DAVID BURGIN, in furtherance of drug trafficking crimes for which he may be prosecuted in a court of the United States, that is, violations of Title 21, United States Code, Sections 846 and 856 as alleged respectively in Counts 1 and 2 of this Complaint, the allegations of which are incorporated herein by reference, did knowingly and unlawfully possess firearms, during and in relation to said drug trafficking crimes, did knowingly and unlawfully possess firearms, all in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.



THOMAS J. WEBB
Special Agent
Homeland Security Investigations
Printed name and title

Sworn to before me and signed in my presence.

Date: February 20, 2020

City and State: Buffalo, New York



HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

THOMAS J. WEBB, being duly sworn, deposes and states:

1. I am employed as a Special Agent (“SA”) for the Department of Homeland Security (“DHS”), Homeland Security Investigations (“HSI”), Immigration and Customs Enforcement (“ICE”). I am currently assigned to the HSI Border Enforcement Security Taskforce (BEST), which investigates drug trafficking and money laundering organizations that operate in the United States and foreign countries with a nexus to the United States. As such, I am an investigator or law enforcement officer of the United States, within the meaning of Title 18, United States Code, Section 2510(7), and I am empowered by law to conduct investigations of, and to make arrests for, the offenses enumerated in Title 18, United States Code, Section 2516. Furthermore, per the Interagency Cooperation Agreement between the Drug Enforcement Administration (“DEA”) and ICE/HSI, I am a cross designated agent authorized to investigate violations of Title 21, United States Code.

2. During my law enforcement career, I have participated in numerous cases involving the distribution of narcotics. I have participated in successful investigations into illicit drug distribution networks. I am familiar with how controlled substances are obtained,

diluted, packaged, distributed, sold and used within the framework of drug trafficking and how drug traffickers use their persons and personal property to facilitate their illegal activities.

3. This affidavit is being submitted in support of a criminal complaint charging **DAVID J. BURGIN** and **RODNEY PIERCE** with a violation of Title 21, United States Code, Sections 846, 841(a)(1) and 841(b)(1)(B)(conspiracy to distribute 500 grams or more of cocaine); and charging **DAVID J. BURGIN** with violations of Title 21, United States Code, Section 856(a) (maintaining a drug-involved premises); and Title 18, United States Code, Section 924(c)(1)(A)(i). Since this affidavit is being submitted for the limited purpose of obtaining a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts I believe are necessary to establish the required foundation for the requested complaint.

PROBABLE CAUSE

4. On February 19, 2020, members of the Erie County Sheriff's Office (ECSO) Narcotics Squad obtained search warrants for two residences in the City of Buffalo NY, two vehicles and one individual. The search warrants were obtained by the ECSO and signed by Erie County Court Judge Kenneth F. Case. The warrants each authorized law enforcement to search for evidence of narcotics trafficking, including evidence of the distribution of cocaine, a Schedule II controlled substance, and firearms.

5. On February 19, 2020, at approximately 11:30 a.m., an ECSO marked unit conducted a traffic stop of the target subject operating one of the known vehicles. The stop

and subsequent search of the target resulted in the discovery of approximately a 1/2 ounce of cocaine and cocaine base on the target's person. Members of the ECSO Narcotics Squad further executed the search warrants of the residences and additional vehicle.

6. The first residential search warrant resulted in the seizure of: 1) two (2) handguns, 2) ammunition, 3) ammunition magazines, and 4) a quantity of marijuana.

7. The second residential search warrant resulted in the seizure of: 1) four (4) loaded handguns, 2) approximately 1 ½ kilograms of suspected cocaine, 3) fifty (50) round ammunition magazine, 4) approximately \$50,000.00 US currency, 5) scales, 6) packaging materials and 7) cutting agents for narcotics distribution.

8. In a post-Miranda interview conducted at the ECSO Office the target of the search warrant stated that the cocaine found in his possession and seized at his residence were supplied to him by **DAVID BURGIN** approximately 1 week prior. The target stated that **BURGIN** utilizes his nephew, **RODNEY PIERCE**, to deliver the cocaine. The target provided telephone numbers for **BURGIN** and **PIERCE** and stated that he contacts **PIERCE** to place the order.

9. On this date, the target expressed a willingness to cooperate and, at the direction of law enforcement, engaged in consensually monitored and recorded telephone calls to **PIERCE** to arrange for delivery of cocaine. After several monitored and recorded wire and text communications **PIERCE** agreed to deliver a kilogram of cocaine.

10. On February 19, 2020, at approximately 4:19 p.m. in a monitored and recorded conversation **PIERCE** agreed to meet at 5:30 p.m. to provide the target with a kilogram of cocaine. At 4:32 p.m. **PIERCE** texted “Unc meet u at 6”. In another recorded and monitored conversation **PIERCE** advised the target to meet him at the AutoZone on Broadway in the City of Buffalo. In anticipation of the meet members of law enforcement established surveillance in the vicinity of the AutoZone on Broadway. A white Dodge Caravan bearing NY registration JNG 9815, occupied by an individual matching the description of **RODNEY PIERCE** and later identified as **PIERCE** was observed backed into a parking spot at the AutoZone. At the time of the surveillance an unrelated marked Buffalo Police Patrol Unit was observed in the area of the AutoZone resulting in **PIERCE** departing the area. Surveillance was maintained on **PIERCE** and **PIERCE** was observed parking in the area of 56 Grimes Street, Buffalo, NY. **PIERCE** was further observed exiting the white Dodge Caravan with a black bag and entering 56 Grimes Street. At 5:46 p.m. **PIERCE** texted “In route b there in ten mins”, “Big cuh unc said 15 mins hold on one sec”, “Waiting for him pull up on me one sec unc”. A short time later **PIERCE** was observed exiting 56 Grimes, getting in the Dodge Caravan and travelling to the AutoZone. Law Enforcement converged on the Dodge Caravan and placed **PIERCE** in custody. A subsequent search of the vehicle resulted in the seizure of approximately 1.9 kilograms of suspected cocaine. The cocaine was found in a black backpack located on the front seat of the Dodge Caravan.

11. Shortly after **PIERCE** was placed in custody members of the investigative team returned to 56 Grimes and observed a white Toyota Tundra, bearing NY registration HEG 4699 ,and known to be operated by **DAVID BURGIN** parked on the street. A short time

later the Toyota Tundra departed Grimes. The vehicle was travelling in the direction of the AutoZone on Broadway and pulled into a gas station located across the street from the AutoZone. Law Enforcement approached the Tundra and asked the driver to step out. The driver was identified as **DAVID BURGIN**. **BURGIN** was asked where he was coming from and he stated "the gym". He was asked if he was anywhere else and responded that he wanted a lawyer.

12. On February 19, 2020, members of the Erie County Sheriff's Office (ECSO) Narcotics Squad obtained search warrant for 56 Grimes Street, Buffalo, NY. The search warrants were obtained by the ECSO and signed by Erie County Court Judge Kenneth F. Case.

13. The search warrant at 56 Grimes resulted in the seizure of: 1) two handguns; 2) one loaded rifle; 3) one rifle; 4) approximately \$250,000.00 USD; 5) 2.35 kilograms of suspected cocaine; 6) 17.5 lbs marijuana; 7) 114 grams of suspected fentanyl; 8) 2 narcotics presses; 9) a money counter; 10) two vacuum sealers; 11) two large containers of cutting agents for narcotics distribution; 12) packaging materials; 13) books and records; and 14) 11 Hard Drives.

14. **WHEREFORE**, based upon the foregoing, it is respectfully submitted there is probable cause to believe that **DAVID BURGIN** and **RODNEY PIERCE** did commit the offense(s) as alleged in the Criminal Complaint.



THOMAS J. WEBB
Special Agent
Homeland Security Investigations

Sworn and subscribed to before
me this 20th day of February, 2020.



HONORABLE H. KENNETH SCHROEDER, JR.
United States Magistrate Judge